

**INITIAL STATEMENT OF REASONS**  
**February 25, 2004**

**Title 14.           Natural Resources**

**Division 7.       California Integrated Waste Management Board**

**Chapter 6.       Permitting Of Waste Tire Facilities and Waste Tire  
Hauler Registration and Tire Manifest**

**Article 8.5       Waste Tire Hauler Registration and Manifesting  
Requirements for Used and Waste Tire Haulers,  
Tire Dealers, Used and Waste Tire Generators, and  
Used and Waste Tire End-Use Facilities**

**§18449 - 18462**

**PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION  
OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS**

With the passage SB 744 (McCorquodale, 1993) and the subsequent regulations, the California Integrated Waste Management Board (Board) has been regulating the transportation of used and waste tires. Waste Tire Hauler Registration standards were designed to prevent environmental catastrophes and adverse impacts to public health and safety due to improper transportation and storage of used or waste tires. AB 117 (Escutia, 1998) was signed into law requiring the Board to prepare a report to the legislature on the current waste tire program and to make recommendations by June 30, 1999 for needed changes. The Board adopted the final version of the report entitled "California Waste Tire Program Evaluation and Recommendations" at its June 22, 1999 meeting. SB 876 (Escutia, 2000) was passed by the Legislature changing the tire statutes to better serve the regulated community and to protect public health and safety and the environment. Most of the changes that were incorporated in the regulations that became effective July 1, 2003, were the result of either the passage of SB 876, or recommendations in the AB 117 Report, as well as, changes that were made based on administering these regulations for the past 6 years.

Under these regulations retreaders, like other waste tire haulers, were required to manifest every transaction of retreadable casings along with the required trip log. The retread industry felt that because tire casings are owned by their clients, and do not become the property of the retreaders and because they are being transported by the retreader only for inspection, re-treading, re-

casing, or re-capping; and not disposal, that they should not be required to manifest the pick-up and delivery of each load of casings. The retread industry felt that the manifesting requirements were overly burdensome. The Board agreed with the retread industry, and adopted Emergency Regulations. On August 23, 2004, the Emergency Regulations became effective, revising the Waste Tire Hauler Registration and Manifesting Regulations pertaining to Retreaders.

The Emergency Regulations revise the waste tire hauler registration and manifesting regulations allowing retreaders who have self-certified with the Board to use a new Retreader Trip Log, and to substitute customer invoices for Manifest Forms.

**ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS & ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS.**

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

The following response shall be used for the requirement that the above finding be made for each proposed regulatory action.

The Board has determined that:

- No alternatives to the proposed regulatory actions would be as effective and less burdensome to private persons while protecting human health, safety, and the environment,
- There are no other alternatives to the proposed regulatory actions that would lessen adverse economic impact on small business while protecting human health, safety, and the environment.

The proposed regulations will not add any substantively new regulatory requirements for the waste tire generators, tire dealers, and end-use facilities.

**INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

CIMWB staff made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In making this determination, the CIWMB relied upon an analysis by Cal/EPA's Agency-wide Economic Analysis Program.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

The following response shall be used for the requirement that for each proposed regulatory action that each study, report, or document relied upon, if any, must be identified.

The Board relied upon the following in proposing the adoption of these proposed regulations:

- Existing statute and regulation.
- Public board and committee meetings held by the CIWMB, both to implement the emergency regulations and to obtain approval to proceed with the final rulemaking.

### **LOCAL MANDATE AND FISCAL DETERMINATIONS**

#### **DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS**

CIWMB staff has determined that the proposed regulations do not impose: 1) a mandate on local school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other non-discretionary costs or savings on local agencies; 5) costs or savings in federal funding to the state.

### **FINDING ON NECESSITY OF REPORTS**

#### **DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS**

CIWMB has found that the requirement for specific reports are necessary for the health, safety, and welfare of the people of the state because it will help to ensure that the standards in Article 8.5 are met by operators and adequately monitored by the CIWMB or enforcement agencies.

### **DUPLICATION OR CONFLICTS WITH CODE OF FEDERAL REGULATIONS**

#### **DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS**

No duplication or conflict exists between the proposed regulations and federal regulations contained in the Code of Federal Regulations because Federal law or regulations do not contain comparable requirements.

### **SPECIFIC PURPOSE OF THE REGULATION: NECESSITY**

§ 18449 – The term “retreader” is added to the “Scope” of this article to indicate that the retreader profession is to be recognized apart from waste tire haulers, waste tire generators, tire dealers, and end-use facilities with regard to these regulations.

§ 18450(a)(12) - This definition is intended to clarify the meaning of “Invoice” used in other sections of these regulations. The invoice is provided by the Retreader and contains information pertinent to the shipment of casings. The information required on the invoice is consistent with the information currently required on the Waste Tire Manifest form, with the exception of

information that is not pertinent to retreading. This includes tire types, intended use, and hauler exemption.

**§ 18450(a)(19)** - This definition is intended to clarify the meaning of “Retreader” used in this and other sections of these regulations. A retreader is defined using terms similar to those used for “Person” in Section 18450(a)(17), with the exception that a retreader is not a political subdivision, government agency or a municipality. A retreader is in the business of retreading, recasing, or recapping tire casings for reuse. Each of these terms defines the activities of a retreader. Notwithstanding the other requirements, a retreader is someone actively engaged in the business of retreading. If a retreader is not currently retreading, recasing or recapping, then the retreader does not qualify under this definition. The requirement that the retreader have manufacturer 3-digit identification is consistent with the Code of Federal Regulations Title 49, Section 574.5. The requirement that the retreader complete the Retreader Self-Certification and that it be deemed complete by the Board is consistent with Section 18456.2.1. Aside from the deviation in the manifesting requirements, the retreader must comply with all the waste tire hauler requirements. For example, the retreader must retain his/her waste tire hauler status to function as a self-certified retreader. This includes among other requirements, keeping the bond in full force and effect as specified in Section 18456.1(b).

**§ 18450(a)(20)** – This definition is intended to clarify the meaning of “Retreader Trip Log” used in this and other sections of these regulations. The primary difference between the Retreader Trip Log and the Waste and Used Tire Trip Log is that the former is intended to be used by retreaders in conjunction with invoices and the latter is intended to be used by waste tire haulers in conjunction with Manifest Forms. The Retreader Trip Log shall be used when transporting casings from the generator to the retreading facility for inspection, retreading, recasing, or recapping. In the event that the casing does not meet the inspection standards for retreading, recasing, or recapping, the casing may be shipped back from the retreading facility to the generator using a Retreader Trip Log. In both cases the generator retains ownership of the casing(s). The Retreader Trip Log may not be used if the shipment of casings includes used or waste tires. In this instance, manifest forms and a Waste and Used Tire Trip log will be required. The Retreader Trip Log is discussed in more detail in Appendix A, below.

**§ 18450(a)(22)** – The term “tire casing” is defined here because the term is used in the above definition of “Retreader,” “Retreader Trip Log,” etc. The definition states that a tire casing is the carcass of a reusable tire that after inspection can be retreaded, recased, or recapped by a Retreader. Not all casings can be reused due to wear or damage. Therefore, the definition includes the phrase “after inspection.” If it is determined that the casing cannot be reused, then the casing is returned to its owner.

**§ 18451** - The term “retreader” is added to this section for consistency. In addition to waste tire haulers, waste tire generators, tire dealers, and end-use facilities, retreaders will be required to comply with these regulations unless exempt by statute.

**§ 18456** – For consistency form CIWMB 180 (Retreader Self-Certification Form) will be made available by the Board along with forms CIWMB 60 and 61 for waste tire haulers.

**§ 18456.2.1** – This section has been added to the regulations describing the “Retreader Self-Certification process. The purpose of the Retreader Self-Certification is to provide a method for individuals to certify to the Board that they are legitimate Retreaders. The Board chose a self-certification process, because the Board did not want it to appear that it was bestowing a new title on Retreaders that might give one Retreader a business advantage over another Retreader. The Board did not want to create a new classification. This is important because a Retreader may continue to operate as a Waste Tire Hauler. The Self-Certification requirements are enumerated on the Retreader Self-Certification form.

**§ 18456.2.1(a)** – The Board shall notify the applicant for retreader self-certification within 30 days of submittal as to whether the Self-Certification form is complete or incomplete, and what information is required if it is incomplete. This process time period is consistent with the application process for waste tire haulers in Section 18456.2(a).

**§ 18456.2.1(b)** – This subsection addresses the issuance of Retreader registration cards and decals, and is consistent with Section 18456.2(b) for waste tire haulers.

**§ 18456.2.1(c)** – This subsection is consistent with Section 18456.2(c) for waste tire haulers. Like the waste tire hauler program, registration cards and decals are not transferable from vehicle to vehicle, and shall be present in the vehicle to which they were issued.

**§ 18456.2.1(d)** – This subsection clarifies the procedure for invalidating a Self-Certification Form. If at any time the Board determines that the information on the form is false, the Board will deem the Self-Certification Form invalid. This is consistent with Section 18457(b) and 18463(d) for waste tire haulers. Section 18457(b) discusses revocation, and Section 18463(d) discusses enforcement. If the Self-Certification Form is deemed invalid, the retreader shall return retreader materials (Subsection (e)) and shall only transport casings as a waste tire hauler (Subsection (f)). The applicant shall be notified and the Board shall determine whether to take enforcement action.

**§ 18456.2.1(e)** – This subsection is consistent with Section 18457(c) for waste tire haulers. Upon invalidation of the Retreader Self-Certification, the retreader shall immediately return unused Retreader Trip Logs and vehicle Retreader registration cards to the Board.

**§ 18456.2.1(f)** – This subsection clarifies that if a Retreader Self-Certification is invalidated as described in Subsection (d), the waste tire hauler may still haul casings under his/her waste tire hauler registration following the requirements for waste tire haulers, i.e., using the Tire Trip Log and Manifest forms.

**§ 18456.2.1(g)** – Subsection (g) clarifies that if the Self-Certification form is deemed invalid by the Board, and if a hauler is not hauling casings in accordance with the retreader requirements, then the Board may deny, suspend or revoke their Waste Tire Hauler Registration. This subsection is consistent with Section 18457(b) for waste tire haulers, which refers to PRC Section 42960.

**§ 18459(a)** – To be consistent with the availability of Waste Tire Hauler forms, the Board will make the Retreader Trip Log available to Retreaders at no charge. It will also be unlawful for a waste tire hauler who is not a Retreader, determined by the Board, to use the Retreader Trip Log. This is consistent with proposed changes to other sections of these regulations.

**§ 18459(b)** – “Retreader Trip Log” and “by appropriate representative” are added to this paragraph to make the requirements for the Retreader Trip Log consistent with requirements for the Manifest form and Tire Trip Log. Each is signed under penalty of perjury and each must accompany the shipment of tires or casings.

**§ 18459.1(d)** – The word “business” has been added before the word “location” in Paragraph (d). This change is intended to clarify that the Tire Program Identification Number is assigned to the location where the business is being conducted.

**§ 18459.2.1** - The title of this section has been expanded to include “Retreader Trip Log” to be consistent with the addition of Subsection (b).

**§ 18459.2.1(b)** – This subsection has been added to make the requirements for the use of the Retreader Trip Log and invoices consistent with the requirements for the use of the Tire Trip Log and Manifest Form. The information required on an invoice, which may be substituted for a Manifest Form, is similar to what is required on a Manifest Form. The Retreader Trip Log and invoices, like the Tire Trip Log and Manifests in Paragraph (a), shall be in the possession of the Retreader while transporting tire casings, and shown upon demand to any representative of the Board, any officer of the California Highway Patrol or any local public officer, or any local public official designated by the Board. To be consistent with the Tire Trip Log in Paragraph (a)(1), the Retreader Trip Log in Paragraph (b)(1) shall be submitted to the Board by the Retreader within 90 days of the load shipment. One difference between Subsections (a) and (b) is that unlike the manifest form, copies of the invoice do not have to be submitted to the Board by the tire dealer, waste tire generator, or retreader.

**§ 18459.3(a)(1)** – Paragraph (a)(1) is added to the regulations to make retention of invoices and the availability of review of invoices for generators, tire dealers and end-use facilities, consistent with requirements for manifests in Paragraph (a).

**§ 18459.3(b)(1)** - Paragraph (b)(1) is added to the regulations to make retention of the Retreader Trip Log and corresponding invoices and the availability of these records for review, consistent with requirements for the Tire Trip Log contained in Paragraph (b).

**§ 18460.2.1** – This section provides clarity regarding manifest system requirements for retreaders beginning with the Retreader Self-Certification process. This section is consistent with the procedures for Waste Tire Hauler manifesting found in Section 18460.2. The term “manifest” is used in the title of this section, because the process of manifesting for waste tire haulers is similar to the process for retreaders.

**§ 18460.2.1(a)** - Subsection 18460.2.1(a) clarifies the requirements for a registered waste tire hauler to become a retreader for the purpose of these regulations. The waste tire hauler must

complete the Retreader Self-Certification Form, and the Board must deem the registered waste tire hauler a Retreader after reviewing the Form.

**§ 18460.2.1(b)** – The requirement in Subsection (b) that the retreader registration card shall be shown to the tire dealer or waste tire generator for the vehicle being used to transport tire casings is consistent with the procedures in Subsection 18460.2(a) for waste tire haulers.

**§ 18460.2.1(c)** – The requirements in Subsection (c) that the retreader shall complete an invoice for each pick-up or delivery of tire casings in accordance with Section 18459.2.1(b) and 18461(a)(1) and that each pick-up or delivery of tire casings shall be entered into the Retreader Trip Log according to the instructions on the Trip Log is consistent with the procedures in Subsection 18460.2(b) for waste tire haulers, with the exception that the invoice is substituted for the manifest form.

**§ 18460.2.1(d)** – The requirement in Subsection (d) that a vehicle may contain casings from different tire dealers or waste tire generators so long as a separate invoice is prepared for the casings from each point of origin is consistent with the procedures in 18460.2(c) for waste tire haulers.

**§ 18460.2.1(e)** – The requirement in Subsection (e) that a copy of the invoice shall be left with the tire dealers, waste tire generator, or end-use facility is consistent with the procedures in 18460.2(d) for waste tire haulers.

**§ 18460.2.1(f)** – The requirement in Subsection (f) that the retreader shall keep one copy of the fully completed invoice is consistent with the procedure in 18460.2(e) for waste tire haulers.

**§ 18460.2.1(g)** – The requirement in Subsection (g) that the retreader shall haul casings to an end-use facility not legally authorized to accept used or waste tires is consistent with the procedures in 18460.2(f) for waste tire haulers.

**§ 18460.2.1(h)** – The requirement in Subsection (h) that the retreader shall not transport casings without a properly completed invoice form and Retreader Trip Log is consistent with the procedures in 18460.2(g) for waste tire haulers.

**§ 18461(a)(1)** - This subsection clarifies that an invoice may be substituted for a manifest form when an end-use facility is receiving a casing from a Retreader for inspection, retreading, recasing, or recapping. The particulars of the invoice are spelled out in Section 18459.2.1(b). The term “may be substituted for the Manifest Form” means that a Retreader using a Retreader Trip Log and invoices or a Tire Trip Log and Waste Tire Hauler Manifest Forms may transport casings to a retread facility.

**§ 18462(a)(1)** – This subsection clarifies that an invoice may be substituted for a manifest form when a generator or tire dealer is shipping a casing via a Retreader to a retread facility for inspection, retreading, recasing, or recapping. The particulars of the invoice are spelled out in Section 18459.2.1(b). The term “may be substituted for the Manifest Form” means that a Retreader or Waste Tire Hauler may transport the casings to a retread facility using a Trip Log

and Manifest Forms, under the existing Waste Tire Hauler Manifesting procedures. The requirement that the generator or tire dealer retain copies of invoices for a period of three years at the place of business is consistent with the procedures for the Manifest Form in Subsection 18462(a)(1).

## Appendix A

**Form CIWMB 173 (05/04) “Retreader Self-Certification”** – This form is identified in Sections 18450 and 18460.2.1, as well as other sections of Article 8.5. Portions of the information to be entered on this form are consistent with the information asked for on the Waste Tire Hauler Application (CIWMB-60 (3/03)). This includes business name, address, etc. The applicant should have a Tire Program Identification (TPID) number in accordance with Section 18459.1(c). One unique piece of information required on the Retreader Self-Certification is the three digit retreader identification number. The Retreader shall insert a Manufacturer 3-Digit Identification issued by the United States Department of Transportation pursuant to Title 49, Code of Federal Regulations, § 574.5. The conditions specified on the form that the Retreader must comply with are consistent with the requirements in Sections 18460.2.1, 18460.2, and 18459.2.1(b) and Sections 830.1 and 830.2 of the Penal Code. The “penalty of perjury” is consistent with Section 18450(a)(19) and PRC Section 42960 and 42962.

**Form CIWMB 180 (03/04) “California Retreader Trip Log”** – The use of the Retreader Trip Log is described in Sections 18450(a)(20), 18459.2.1, and 18460.2.1. This form is to be used in place of the Waste Tire Manifest form and the Uniform Waste and Used Tire Trip Log for transporting tire casings by retreaders. The information required on the Retreader Trip Log is consistent with the information on the above cited forms; however, less information is collected. The purpose of Retreader Trip Log is to capture the necessary information for the Board to track shipments of casings, without being as onerous as the current manifest system. Since an invoice replaces the manifest for generator and retread facility, the Retreader Trip Log requires an invoice number instead of a manifest number. Because invoices are not submitted to the Board, the name, address and Tire Program Identification number of each generator and retread facility are entered on the Retreader Trip Log. Information on the retreader who is completing the Retreader Trip Log is similar to the information captured on the Waste and Used Tire Hauler Trip Log for the hauler.